

Media Release: Insolvency and restructuring profession welcomes Government's proposed reforms – but careful review still required

ARITA – the professional association for those who provide business rescue and assistance to individuals and companies in financial distress – has largely welcomed the government announcement for reforms to the insolvency regime.

“What is proposed is largely an adoption of policies set out by ARITA in 2014 and, in the main, later recommended by the Productivity Commission. Those policies to allow restructuring of small business and the streamlining of unnecessary processes in small company liquidations are definitely overdue,” said ARITA CEO John Winter.

“Since the beginning of the COVID crisis we’ve been consistently advocating adoption of these changes to Treasury, so we are pleased to see that the Government has taken heed”

“But this is a very complex change and there are significant issues in the detail of what we are seeing is being proposed.”

“The biggest issue is going to be in the expectation that creditors – from banks, through to suppliers, employees, subbies and the like are going to keep allowing businesses to rack up more debt while this restructuring occurs, knowing that they may end up being owed more and getting nothing,” said Winter.

“With the proposed creation of Small Business Restructuring Practitioners, the government needs to take the opportunity to fully regulate the provision of insolvency and restructuring advice - to shut down the exploding level of dodgy, unqualified advisers who facilitate phoenixing and asset stripping. An approach similar to that taken to AFSLs is absolutely essential.”

“We are pleased to see proposed reforms to the registration of liquidators and trustees given we’ve been advocating for changes to allow for greater diversity in the profession, where less than 10% of registered insolvency practitioners are women. However, it would be of profound concern if the government reduces the requirements on minimum education and competency. That would fly in the face of all that came out of the Hayne Royal Commission.”

“It is disappointing, though, that positions we outlined well before any recession occurred are only being adopted in the middle of a crisis. Unfortunately, that’s going to make implementing these changes incredibly difficult, especially in such a short time frame. Our profession has been massively impacted by recent government policy changes and we will require significant assistance from the Government to get this over the line before 31 December, including removal of all the heavy costs levied on liquidators by ASIC, which we’ve been calling for since its introduction.”

Please read the detailed members-only technical review [here](#)

John Winter

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